

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

*OMNISURE GROUP, LLC, a Delaware  
limited liability company,*

Plaintiff,

v.

Cause No. 1:16-cv-06310

*NATIONAL REPAIR PROTECTION,  
LLC, a Florida limited liability company  
and RICHARD J. PODHORN,*

Defendants.

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*RICHARD J. PODHORN,*

Third-Party Plaintiff,

v.

*TODD BEIKMANN,*

**Serve at:  
4207 W 92ND Terrance  
Prairie Village, KS 66207**

And

*THOMAS NEUBARTH,*

**Serve at:  
4922 Rochelle Ave.  
Irvine, CA 92604**

Third-Party Defendants.

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**RICHARD J. PODHORN'S THIRD-PARTY COMPLAINT**  
**FOR EQUITABLE CONTRIBUTION**

Defendant/Third-Party Plaintiff Richard J. Podhorn (“Podhorn”) for his Third-Party Complaint for equitable contribution from Third-Party Defendants Todd Beikmann and Thomas Neubarth (collectively “Third-Party Defendants”), states:

### **BACKGROUND**

1. On February 2, 2016, Plaintiff Omnisure Group, LLC (“Omnisure”) filed a lawsuit in the Circuit Court of Cook County, Illinois asserting claims for breach of contract against defendants National Repair Protection, LLC (“National Repair”) and Podhorn. A copy of Omnisure’s Complaint is attached as Exhibit 1.

2. Count I of Omnisure’s Complaint asserts a breach of contract claim against National Repair under an alleged Seller Agreement and seeks recovery “of \$666,886.33, with further amounts continuing to accrue, plus interest, costs and attorneys’ fees.” (Complaint, Exhibit 1, Pgs. 3-5).

3. Count II asserts a claim for breach of contract against Mr. Podhorn under an alleged Guaranty Agreement and seeks recovery of “of \$666,886.33, with further amounts continuing to accrue, plus interest, costs and attorneys’ fees.” (Complaint, Exhibit 1, Pgs. 5-7).

4. On June 17, 2016, Podhorn and National Repair removed the Cook County lawsuit to the United States District Court, Northern District of Illinois, Eastern Division; and Podhorn and National Repair filed their Answer and Affirmative Defenses on June 20, 2016.

5. Podhorn and National Repair denied any liability under the purported Seller Agreement and the purported Guaranty Agreement, respectively and continue to deny any such liability.

### **PARTIES AND JURISDICTION**

6. Podhorn is a citizen of Missouri.

7. Todd Beikmann (“Beikmann”) is a citizen of the State of Kansas.

8. Thomas Neubarth (“Neubarth”) is, on information and belief, a citizen of California.

9. This Court has supplemental jurisdiction over this third-party claim pursuant to 28 U.S.C. § 1332 and 28 U.S.C. § 1336.

**CLAIM FOR EQUITABLE CONTRIBUTION**

10. The alleged Guaranty Agreement relied on by Omnisure to support its claim in Count II against Podhorn was signed by Todd Beikmann and Thomas Neubarth. (Complaint, Exhibit 1, Pg. 36).

11. If the purported Guaranty Agreement is valid and enforceable, then Beikmann and Neubarth unconditionally and irrevocably guaranteed payment to Omnisure of all amounts due and owing Omnisure by National Repair under a purported Seller Agreement.

12. If Podhorn is found liable under the purported Guaranty Agreement to Omnisure in any amount whatsoever, which liability Podhorn continues to expressly deny, then Podhorn is entitled to equitable contribution from Beikmann and Neubarth for their proportionate share of the amount found owing under the purported Guaranty Agreement.

WHEREFORE, Defendant/Third-Party Plaintiff Richard Podhorn respectfully requests that should judgment be entered against him and in favor of Plaintiff Omnisure Group, LLC, that a judgment be entered against Third-Party Defendants Todd Beikmann and Thomas Neubarth for equitable contribution in an amount equal to their share of liability under the purported Guaranty Agreement, and for his costs and such other relief as this Court deems just and proper.

SANDBERG PHOENIX & von GONTARD P.C.

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Attorneys for Defendants,  
***National Repair Protection, LLC***  
***and Richard J. Podhorn***

**Certificate of Electronic Service**

I hereby certify that on 8th day of July, 2016 the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all registered users having filed an entry of appearance.

/s/ Stephen M. Murphy